



Ending the Confusion About “Home of Record”

SORTING out the legal definitions for “legal residence,” “residence” and “home of record” often confounds new soldiers — and some who have been in the Army for several years. Consider, for example, the situation described in this question:

“I’m confused. The military says my legal residence is that of my home of record noted in my official personnel files. My neighbor says its Arizona, where I bought land and pay real-estate taxes. My wife says she has her own legal residence.

“Now my squad leader says my residence is Georgia, where I’m stationed. Since I’m a ‘military brat’ and a career soldier, I thought my legal residence is the Adjutant General’s Office, Washington, D.C.

“Yesterday, my sergeant advised that I should declare Texas as my legal residence, since Texas has no income taxes and everyone else has done it. Can you clarify this issue for me?”

Home of Record

Home of record is the state, territory or possession noted in military files from which the member was enlisted. It is the state or commonwealth to which the government is obligated to deliver the soldier, his or her family, and their personal belongings upon termination of military service.

Although it may coincide with legal residence at the inception of service, it often differs from the actual legal residence during a person’s military service and lifetime.

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Residence

A residence is normally that place in which a person physically resides, without taking into consideration his or her true roots or state of citizenship.

For example, soldiers and family members are residents of Korea, Germany, Georgia, California or Alaska simply by being assigned and living there without any formal actions on their part. But military assignments do not change the home of record or legal residence.

Legal Residence

A legal residence, also known as “domicile,” is the state or commonwealth in which a person is recognized as having “roots” or “citizenship.” It occurs either by circumstance or by choice.

Legal residence by circumstance most often occurs when a person is born and automatically assumes the legal residence of the parents. Similarly, should the parents change their legal residence, the unemancipated child will also incur the same change.

Legal residence by choice occurs when the person becomes emancipated and physically establishes a new residence in a different state.

How to Change Legal Residence

The most common way to change legal residence is for a person to physically depart the existing legal residence with the intent of giving it up, to actually arrive in the new state and begin living there with the specific

intent of making the new location the legal residence.

You can only be a legal resident of one state at a time.

Mere visits, vacations, duty assignments to a new location or the purchase of real estate does not satisfy the concept of permanency. A person may own real estate in several states or territories, but his or her legal residence will not change just because real estate taxes are paid on property.

Female Spouse Options

A female spouse has the option of adopting her husband's legal residence upon marriage, without ever living there, or she may continue her own or establish a new legal residence as noted above.

Proof of Change

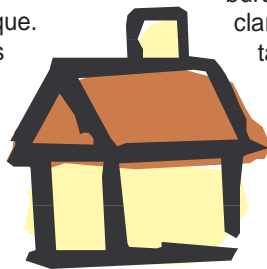
The traditional "corroboration" of a person's intention to establish a new legal residence (LR) is by a combination of such overt acts as:

- ☀ Declaring intention to change and establish a new LR;
- ☀ Departing the old LR, arriving at the new LR and taking residence as a member of the area;
- ☀ Sending notification to the finance office to change Leave and Earnings Statement items concerning monthly income that is reported to the state.
- ☀ Filing income tax returns at the new LR as a resident;
- ☀ Giving up in-state tuition status at the old LR;
- ☀ Terminating auto registration and operator licenses from the old LR and obtaining new ones at the new LR;
- ☀ Changing LR on liability insurance policies covering automobiles and other property;
- ☀ Registering to vote at the new LR (taking an oath of residency);
- ☀ Transferring professional licenses to the new LR;
- ☀ Purchasing or leasing a dwelling at the new LR;
- ☀ Transferring savings, checking or credit accounts to the new LR

Impacts

The change of legal residence is not unique. But it should be based upon valid conditions and individual considerations of present and future legal and economic impacts.

The decision to change a legal residence should not be an expediency measure to comply with a single issue, such as the registration of a motor vehicle or to attempt to avoid a given tax.



Legal residence has many implications that include but are not limited to inheritance, common law property rights, voting, in-state tuition rates, divorce, adoption, right to sue in particular courts, professional licensing eligibility, personal property and income taxation, and much more.

Even the preparation of a last will and testament will be based upon the specific laws of the state you tell the attorney is your legal residence. Incorrect legal residences normally result in legal documents that may not satisfy the laws of another jurisdiction, especially in such states or territories as Virginia, New York, California, Florida, Washington, Louisiana or Puerto Rico.

Give Notice

Should you change your legal residence, be certain to notify everyone who needs to know.

For example, do not avoid telling the old tax authorities of the change, and expect them to want some proof of the change, such as a copy of your new income-tax return.

Stop employer withholdings for the old state of legal residence and begin withholdings for the new one, if needed. Stop voting by absentee ballot or in person at the old legal residence.

Do not ignore notices for renewal of registrations, voting, jury duty, taxes, etc. Always respond with a polite notice requesting that your name be removed from their roles and keep copies of these notices.

End Confusion

Don't let "home of record" confuse you anymore. Simply remember that it's most important to you when you terminate your service in the military, when you and your family are authorized a final move, at government expense, from your present duty station to the home of record or any point between that is a shorter distance.

In the meantime, expect to be bombarded with opinions from various quarters, including superiors, who have for years maintained that "home of record" is the same as "legal residence."

At other times, clerks at local motor vehicle bureaus and other agencies may incorrectly declare military members to be subject to local taxes, fees and registrations, so it is again important to understand the exemptions you are entitled to because of your home of record.

If in doubt as to what your legal residence is or whether you are subject to these taxes or fees, make an appointment with your legal assistance attorney. □

